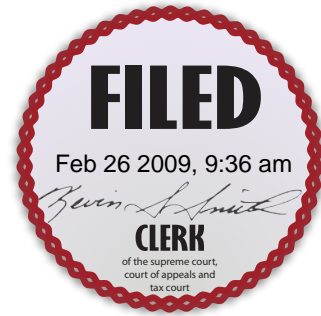


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



ATTORNEY FOR APPELLANT:

LILABERDIA BATTIES

Batties & Associates
Indianapolis, Indiana

ATTORNEY FOR APPELLEE:

KAREN CELESTINO-HORSEMAN

Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

YOLANDA M. HOLLINS,

Appellant-Petitioner,

vs.

ANDREW R. BELL,

Appellee-Respondent.

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No. 49A02-0809-JV-813

APPEAL FROM THE MARION CIRCUIT COURT
The Honorable Theodore M. Sosin, Judge
Cause No. 49C01-0707-JP-30393

February 26, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

NAJAM, Judge

STATEMENT OF THE CASE

Yolanda Hollins (“Mother”) appeals from the trial court’s order awarding Andrew Bell (“Father”) physical custody of the parties’ minor child, A.H., in this paternity case.

Mother presents the following issues for our review:

1. Whether Mother was denied her right to due process when she was allegedly denied access to a custody evaluation report prior to the final custody hearing.
2. Whether the trial court abused its discretion when it awarded physical custody of A.H. to Father.

We affirm.

FACTS AND PROCEDURAL HISTORY

On February 24, 2007, A.H. was born to Mother and Father, out of wedlock. Mother filed a petition to establish paternity, and on October 15, 2007, Father’s paternity was established by agreement of the parties. Also on that date, the trial court held a hearing on Mother’s request for an order of protection, which the trial court denied. And Father filed a petition for “Permanent Child Custody” and moved the trial court for a referral to the Domestic Relations Counseling Bureau (“the DRCB”) for an evaluation and report regarding permanent child custody and parenting time. Appellant’s App. at 26. Father began exercising parenting time in October 2007, pending his custody petition.

On January 10, 2008, the DRCB filed its evaluation and recommendation with the trial court. In that report, the DRCB concluded that Father “should be designated as primary residential parent[,],” with Mother exercising parenting time according to the Indiana Parenting Time Guidelines. Defendant’s Exhibit B at 10. Following a final

hearing on Father's custody petition on July 24, 2008, the trial court awarded physical custody to Father and parenting time to Mother. The trial court also ordered that the parties would have joint legal custody of A.H. This appeal ensued.

DISCUSSION AND DECISION

Issue One: Evaluation Report

Mother first contends that she was denied her right to due process when the trial court did not provide her with a copy of the DRCB evaluation report prior to the hearing and when she was "not . . . allowed the opportunity to cross-examine the [DRCB] evaluator[.]" Brief of Appellant at 12. We cannot agree.

Indiana Code Section 31-17-2-10 provides:

(a) The court may seek the advice of professional personnel even if the professional personnel are not employed on a regular basis by the court. The advice shall be given in writing and made available by the court to counsel upon request.

(b) Counsel may call for cross-examination of any professional personnel consulted by the court.

During the October 15, 2007, hearing, the trial court advised Mother that the DRCB would file its evaluation with the court, but that the court was not required to follow the DRCB's recommendation. And the trial court instructed Mother as follows:

You have the ability to read the [evaluation] report, but I require that you do that here. So, if you want to come in a week; we don't have another hearing date right now, but you can come in a week before the hearing and read it. You can come in an hour before the hearing and read it; however you want to do it, but you are entitled to read it. You are not entitled to take a copy with you, as is, Mr. Bell is not allowed to take a copy with him.

Transcript at 28. Mother then informed the trial court that she has a “reading disability,” and the trial court agreed to allow Mother to bring somebody with her to assist her in reading the evaluation. Id.

Mother does not direct us to any authority stating that she was entitled to a copy of the evaluation report. Indiana Code Section 31-17-2-10 provides only that such a report be made available to a party upon request. And the trial court informed Mother, several months prior to the final hearing, that she was entitled to read the evaluation at the courthouse, at her convenience, prior to the hearing. Further, as Father points out, Mother was entitled to subpoena the DRCB evaluator, but chose not to do so. As such, Mother’s contention that she was denied an opportunity to cross-examine the evaluator is entirely without merit.¹ And Mother has not shown that she was denied her right to due process with respect to the evaluation report.

Issue Two: Custody

Mother next contends that the trial court abused its discretion when it awarded physical custody of A.H. to Father. Our standard of review is as follows:

Because the trial court entered findings of fact and conclusions of law, we apply a two-tiered standard of review. We first determine whether the evidence supports the findings, and then we determine whether the findings support the conclusions. We may reverse only if the evidence does not support the findings or the findings do not support the judgment. During our review, we may not reweigh the evidence or reassess the credibility of the witnesses. Rather, we consider only the evidence favorable to the trial court’s judgment.

¹ On appeal, Mother notes, in a footnote and without citation to authority, that she represented herself throughout these proceedings, but “should have been appointed pro bono counsel[.]” Brief of Appellant at 2 n.1. Because Mother does not support this “issue” with citation to authority or cogent argument, we do not address it.

In re V.C., 867 N.E.2d 167, 179 (Ind. Ct. App. 2007) (citations omitted).

Indiana Code Section 31-14-13-2 governs custody determinations in paternity actions and provides:

The court shall determine custody in accordance with the best interests of the child. In determining the child's best interests, there is not a presumption favoring either parent. The court shall consider all relevant factors, including the following:

- (1) The age and sex of the child.
- (2) The wishes of the child's parents.
- (3) The wishes of the child, with more consideration given to the child's wishes if the child is at least fourteen (14) years of age.
- (4) The interaction and interrelationship of the child with:
 - (A) the child's parents;
 - (B) the child's siblings; and
 - (C) any other person who may significantly affect the child's best interest.
- (5) The child's adjustment to home, school, and community.
- (6) The mental and physical health of all individuals involved.
- (7) Evidence of a pattern of domestic or family violence by either parent.
- (8) Evidence that the child has been cared for by a de facto custodian, and if the evidence is sufficient, the court shall consider the factors described in section 2.5(b) of this chapter.

(Emphasis added).

Mother's argument on appeal amounts to nothing more than a request that we reweigh the evidence, which we will not do. While Mother asserts that the trial court considered factors "not included among the factors enumerated in I.C. § 31-14-13-2,"

such as the fact that Father does not have any other dependents to support, Mother ignores the statutory language giving the trial court discretion to consider “all relevant factors,” not just those enumerated in the statute. See id. The trial court’s findings and conclusions indicate that the court carefully considered the evidence in this case, including the DRCB evaluation recommending that Father have physical custody of A.H. Again, we will not reweigh the evidence or reassess the credibility of witnesses on appeal. In re V.C., 867 N.E.2d at 179. Mother has not demonstrated that the trial court abused its discretion when it awarded Father physical custody of A.H.

Affirmed.

BAKER, C.J., and KIRSCH, J., concur.